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THE ROLE OF LAW IN WELFARE REFORM: CRITICAL PERSPECTIVES ON THE RELATIONSHIP BETWEEN LAW AND SOCIAL WORK PRACTICE¹

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Abstract

This paper considers the complex relationships between law, welfare policy and social work practice, to address the question of what role legal frameworks might play in achieving welfare policy and professional practice goals. The authors trace how law has developed as a core component of professional practice, and challenge some of the false expectations placed upon it. They then draw on findings from an international knowledge review of law teaching in social work education to propose a model for understanding how professional practice incorporates legal perspectives, and propose ways in which legal frameworks can provide positive and constructive vehicles for accountable practice.

Keywords:

Law, welfare policy, welfare reform, social work practice, social work education

Introduction

The relationships between law, welfare policy and social work practice are complex and contested. In some national jurisdictions, law is seen as one of the core mandates for social work practice (Braye and Preston-Shoot, 1997), with some in the UK context claiming that it is *the* core mandate (Beckford Report, 1985; Ball et al., 1988). This strong connection finds parallels in the Australian context, Swain (2002) observing that all social work practitioners must deal with the law, lawyers and legal systems.

In contrast to this emphasis on the centrality of law, others (for example, Stevenson, 1988) have claimed a different core mandate – that of an ethical duty of care, in pursuit of which social workers might use the legal framework as one of the tools of their practice. This position is certainly more apparent in North American literature (Dickson, 1997; Madden and Wayne, 2003; Watkinson, 2001), and retains a strong currency across a range of national contexts, acting arguably as a counter-balance to the dominance of legal rules. At the 2004 IFSW/IASSW conference in Adelaide, South Australia, for example, a considerable number of papers were presented on ethics, whilst law was conspicuous by its virtual absence.

It is not uncommon, however, when welfare reform is on the agenda, for the law to be seen as a critical component in developing provision and strengthening professional practice. In the UK context, the centrality of law has developed over time, fuelled by a series of high profile events within child care, public responses to which were characterised by a perception of flawed professional practice in relation to the legal mandates for protecting children.

¹ This article develops a paper originally given under the same title at Monash University, Melbourne, Australia, October 2004.

First, in the mid-1980s, there occurred a cluster of tragic child deaths. Jasmine Beckford, Kimberley Carlile and Tyra Henry were known to welfare agencies in England, and fell within the remit of the legal framework for state intervention. Yet they died. The enquiry into the death of Jasmine Beckford (Beckford Report, 1985) concluded that the social workers had paid insufficient attention to their legal mandate for protecting children. If only they had done what the law empowered them to do, ran the argument, Jasmine would not have died. Either they did not know, or had paid insufficient attention to, the legal framework. They did 'too little too late'.

Second, towards the end of that decade in Cleveland, a local authority in the North-East of England, large numbers of children over a short period of time were removed from their parents under suspicions of child sexual abuse. The majority were subsequently returned to their parents, and the methods of diagnosis and decision-making systems discredited. The practitioners here exercised their judgement and acted under their legal mandates for child protection, but the inquiry (Butler-Sloss, 1988) told them they got it wrong. They did 'too much too soon'.

More recently the inquiry into the death of Victoria Climbié (Laming, 2003), who died in circumstances that must be amongst the most shocking in terms of child cruelty, concluded that it was the welfare system management, administrative and supervisory systems that had failed her. The answer now proposed in the Children's Bill of 2004 is to create a legal and administrative system for sharing of information and surveillance of children in the UK that is certainly unprecedented and has been critiqued as a gross invasion of both parents' and children's human rights (Garrett, 2003). No doubt the intention is to make sure social workers and others concerned with children's welfare get it 'just right'.

The three examples demonstrate the conflicting imperatives that are juxtaposed in welfare legislation, and which policy-makers must reconcile in the legal rules. State interventions may be designed both to protect and to support citizens, oscillating between paternalism, respect of individual autonomy and a search for empowerment (Braye and Preston-Shoot, 1995). Social workers must balance these imperatives in each case they encounter, navigating the practice dilemmas that ensue. In the first scenario, the emphasis was on child protection; in the second, the rights of parents were prioritised; in the third, children's and parents' rights to privacy are subsumed to the principle of protection, whilst proposals in the Children's Bill for a children's commissioner attempt to tip the balance towards children's rights to participation. In all three examples here, what curiously is not questioned is the role of law itself. It is professional practice or organisational management that are seen as at fault when things go wrong, and the solution is often construed as 'more law' or 'more attention to law'.

What these debates illustrate is the essentially contested nature of the relationship between law and practice and the delicate balance between law and ethics within a framework for professional accountability. It is hardly surprising, perhaps, that law is often seen by practitioners as alien and hostile territory, whether in the UK (Preston-Shoot, 2000a), US (Madden, 2000) or Australia (Charlesworth et al., 2000). Students are fearful of learning the law, identifying it as 'not social work', although they recognise their practice will be inherently bound up with it. It is construed as something that creates tensions and dilemmas in practice, gets in the way of, or spoils, relationships with service users, or a big stick with which social workers will be beaten when they go to court (Braye and Preston-Shoot, 2005). Kennedy with Richards (2004) notes that negative reactions of this kind are sometimes driven by

emotion rather than objective assessment, and argues for practitioners to develop a more strategic relationship with law and legal systems.

The recognition of these complexities has informed theory development and research in law and social work over the past fifteen years in a number of jurisdictions. There has been work to map the nature of the relationship between law and social work in conceptual terms (Braye and Preston-Shoot 1997; Madden and Wayne, 2003; Swain, 1999). Such work has sought to address how both law and an ethical duty of care, if both provide mandates for professional activity, are connected in practice; and how might practitioners negotiate the interface between them, responding to any tensions and dilemmas that might arise. Subsequently, empirical work has explored how social workers learn about the law, in both practice and academic environments, and how they use that learning (Braye and Preston-Shoot et al., 2005). This work has led to the key question posed in this paper – that of what role law might play in welfare reform. This is an important question at a time of change and development of the legal frameworks in a number of countries across Europe, including the UK, and in Australia.

Beliefs about law and practice

It is possible to identify a number of beliefs or assumptions about the relationship between law and social work practice, assumptions that are not necessarily helpful in the context of the search for robust and reliable frameworks for welfare provision. These assumptions will be explored and challenged, and an argument made for more realistic ways forward.

1. The belief that law provides a clear map for welfare practice

This assumption is displayed when things go wrong in practice and people, usually children, get hurt. It underpinned the harsh criticisms of social workers' legal knowledge in the UK in the 1980s, and is perhaps most graphically illustrated recently in the report of the enquiry into the death of Victoria Climbié. Beneath the criticisms of individual professional practice (Beckford Report, 1985; Carlile Report, 1987; Butler-Sloss, 1988), management mechanisms (Laming, 2003) and collaborative inter-agency practice (Reder et al., 1993) lies an unquestioned assumption that the legal framework for protecting children is in itself sound. There are a number of problems with this position.

There is in fact no one legal map relating to professional practice, but a series of maps. Law is drawn from a range of sources – statute, court decisions, codes of practice, policy and practice guidance. Practitioners need a whole bag of legal maps, because no one alone shows the whole legal framework. Statute, as one legal map, is constantly being redrawn, either by itself as when one Act repeals or develops another, or by judicial decisions and government guidance. For example, in the UK judicial concern that local authorities were insufficiently accountable for how they delivered care plans for young people resulted in the Adoption and Children Act 2002, amending the Children Act 1989 to create a route back to court to review the outcome of care orders. Courts have caused mental health law to be redrawn so that it is compatible with the European Convention on Human Rights and Fundamental Freedoms in respect of when a same gender partner may act as a nearest relative² and when an approved social worker must consult a nearest relative³. Government

² R on the application of SSG v Liverpool CC and Secretary of State for the Department of Health and LS (Interested Party) [2002] 5 CCLR 639.

³ J.T. v United Kingdom [2000] 1 FLR 909.

guidance on assessment of children in need (Department of Health, 2000) and disabled people (Department of Health, 1990; 1991; 2002) is essential for finding direction in child care and community care practice.

Equally, courts can find a mandate that does not exist in statute. They may use their inherent jurisdiction, and social workers may use the doctrine of necessity in the short term, to safeguard and promote the welfare of an adult who lacks capacity⁴. Yet judicial influence on welfare policy and practice is often ignored, at the expense of statutory and executive influences (Alexander, 2003). This is a serious omission, when law can be a powerful tool with which to hold the state accountable for its actions towards its citizens, and can support practitioners in challenging oppressive state interventions towards service users or claiming rights that are being denied.

Not only are there multiple maps, they also sometimes contradict each other. For example, Preston-Shoot and Vernon (2002) illustrate how youth justice law in the UK is internally inconsistent and superimposed upon, rather than dovetailed with, welfare provision for children in need. Similarly, young people of sufficient age and understanding may refuse assessment under the Children Act 1989. However, they may not themselves exercise choice of school or challenge decisions under education law about what services they should receive in response to any special educational needs.

The arrival of new maps will have significant impact on how practitioners and their managers journey across the terrain. Registration of social workers in the UK (Care Standards Act 2000) and New Zealand (Social Workers Registration Act 2003) will impact on the employer/employee relationship and may enable practitioners to resist unlawful and/or unethical practice within their agencies (Preston-Shoot, 2000b). The Human Rights Act 1998 has begun to hold social work decision-making in the UK accountable in a legal sense to a degree familiar to practitioners in the US (Jankovic and Green, 1981) and Australia (Charlesworth et al., 2000).

Finally, the clarity of the map is also compromised because some features, some aspects of law, are more detailed than others. The main roads may be clearly drawn, but the mountain tracks less well defined. Practitioners in the UK may be able easily to locate a list of factors to be taken into account by courts when making decisions about children's welfare (s.1(3) Children Act 1989); they will struggle to find a legal answer to questions of how they should handle information given to them in confidence by a child. They might find a clear definition of unlawful discrimination on grounds of race (s.1 Race Relations Act 1976), but until recently will have struggled to locate a legal framework for challenging discrimination on grounds of sexuality, or age.

2. The belief that the legal map is the only one practitioners need

This assumption also underpinned the 1980s criticisms of social work's lack of legal awareness, and can be seen in the current rush to law to overcome the concerns relating to children's protection identified earlier in the UK context. But there are problems here too.

The legal map is not the only one in the backpack. Tucked into another pocket is the "ethical duty of care" map, showing professional values that may contradict what is legally mandated, or at least be tangential to it (Alexander, 2003). Where the legal

⁴ Re F (Adult Patient) [2000] 3 CCLR 210; A v A Health Authority [2002] 5 CCLR 165.

map shows a mountain, here may be a valley, or an opposing contour. In respect of asylum and immigration policies, for example, social workers may wish actively to oppose legal rules that deny people access to such fundamentals as housing and social security (Humphries, 2004).

Other factors intervene in the map reading process. In an adversarial court system such as in the UK, the principle of welfare can become secondary to the quality of evidence and the quality of advocacy that is entered. Writers in both the UK (King and Trowell, 1992) and the US (Madden and Wayne, 2003) point to how legal processes can lead to harmful or anti-therapeutic outcomes, with social workers having to weigh this in the balance when considering intervention in people's lives.

Moreover, some territory hasn't been mapped at all. The profile of law differs between practice contexts. A practitioner charged with the responsibility of compulsorily detaining a distressed person in psychiatric hospital will identify without any difficulty their mandate in law. A practitioner in post-adoption counselling may not look to law at all for theirs.

Finally the map is not always available when it is needed. Even if practitioners are exceptionally well-equipped with the latest version, the weather can change, the mist comes down, it gets dark, the torch runs out, and the expedition loses its bearings. It is unwise to be without back up equipment – compasses, flares, wet weather gear, energy food, survival kit and other ways of staying safe. Thus practitioners must have principles and practice wisdom to help navigate the challenges of the unexpected. As Kennedy with Richards (2004) points out, practice is located within interacting layers of contextual and often contradictory factors, of which law is only one.

3. The belief that if the map is accurate enough (i.e. that the law is sound), it will lead safely to the destination

This assumption is found in uncritical calls for evidence-based practice that assume a formula can be applied in professional interventions that will produce the desired effect each time. It is found in the haste with which law can be formulated to respond to political imperatives, for something to be seen to be done, to respond to single, albeit shocking, incidents. But this assumption is problematic too.

The map is not the territory, it is only a map. It gives a bird's-eye view from afar, enabling travellers to see how features on the ground might relate to one another, what direction they might pursue, and what they might meet in the way. Out there in the "swampy lowlands" of practice (Schön, 1983) some of the features on the map are not recognisable on the ground. There are new features that don't appear on the map, and changes in the landscape that can confuse and challenge certainty. This applies to legal practitioners as much as to social workers (Charlesworth et al., 2000). The process is not as simple as the client entering, gathering facts, and applying a (legal) solution. Emotional dynamics may affect the process and outcome of the encounter. The issue may be unclear. There may be several people whose interests must be considered and weighed in the balance. Central to this recognition is the growing emphasis on service user participation in the definition of 'problems' that are to be the focus of professional intervention, and in the devising of 'solutions' to those problems.

Mapping is not just a question of contours. It also requires understanding of how a landscape is formed and changes. For example in relation to counteracting

discrimination on ground of 'race' or disability, the failure of anti-discriminatory legislation to tackle oppression (Brophy and Smart, 1985; Cockburn, 1991) provides evidence that mapping that captures the contours (legal definitions and rules) without the landscape (attitudes) is likely to prove ineffective as a guide towards equality.

Indeed, the belief that the legal rules are the best place to start is arguably based on only one view of the relationship between individuals, communities and the state. Arguably, it could be inappropriate to begin with the state moving into people's private lives but more appropriate to engage with mandates within communities and move out towards the state (Mafile'o, 2004).

The belief in accurate maps leading to reliable destinations is also compromised by activity on the ground. Travellers are sometimes encouraged to dispense with the map in favour of following a set of less technical and clearer directions that minimise uncertainty. Agencies commonly produce sets of procedures – sets of instructions for employees to follow in going about their daily practice. Procedures are intended to standardise practice, to ensure that essential components are observed, that the organisation can fulfil its accountability. They are problematic when they require a predetermined decision to be made whenever certain circumstances pertain – for example in blanket statements that an authority does not provide night sitting for disabled people⁵ or that domiciliary care packages above a certain weekly cost cannot be provided and residential care must be offered⁶. They fetter discretion under the legal framework and can result in unlawful action.

Procedures such as the local authority Performance Assessment Framework in the UK, geared to the attainment of standards of performance that will lead to the award of a higher star rating for an agency, are perceived as leading to practices that are far from the spirit, and sometimes the letter, of the law (Braye and Preston-Shoot, 2005). The legal regulatory framework has proved insufficient to hold practitioners and managers to officially sanctioned versions of good practice or to prevent institutional abuses and organisational shortcomings (Preston-Shoot, 2001). Agencies have systems for management and supervision that can over-rule a practitioner's interpretation of their legal mandate in a given situation, and employees often assume that they are bound by such procedures and systems (Preston-Shoot, 2000b). Thus the search for certainty within corporatised welfare agencies is seen to compromise critical professional practice that draws on ethics and values to grapple with complexity (Hart, 2004). On a dangerous climb, if the map appears to require a left turn, but the guide in charge of the party says turn right, those more junior in the hierarchy are likely to turn right, even though left may be the better (lawful) option.

How do practitioners use the law?

If such beliefs and assumptions are ill-founded, what then might constitute a more robust foundation for a positive relationship between law and practice? The way forward lies arguably in exploring and understanding how practitioners use the law to achieve goals that take account both of professional and service user priorities, and ensuring that law provides tools that are fit for that purpose.

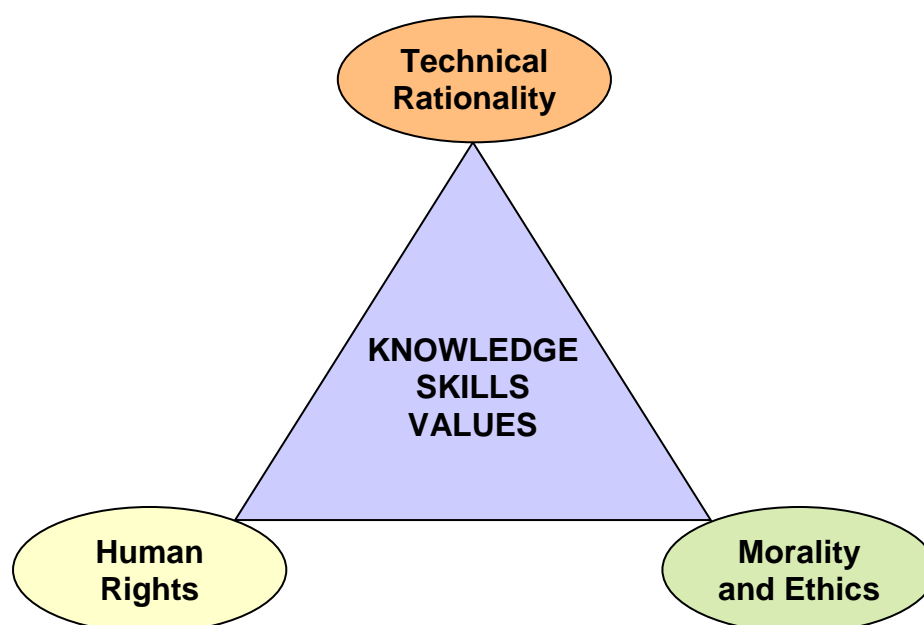
From research recently conducted, it is possible to identify a useful model for conceptualising the different forms of relationship between law and practice. The model emerges from an international review of approaches to law teaching on social

⁵ R v Staffordshire CC, ex parte Farley [1997] Current Law Year Book, 1678.

⁶ Investigation into Complaint No 96/C/4315 against Liverpool CC [1999] 2 CCLR 128.

work qualification programmes. The review comprised both a review of international published and unpublished research and a UK-based survey of education practice, and is reported in detail elsewhere (Braye and Preston-Shoot et al., 2005). The emerging model (Figure 1) reflects some of the myths and assumptions about the relationship between law and social work identified above, and points a way forward in the search for a more robust conceptual framework within which to locate professional practice.

Figure 1: Rationality, ethics and human rights as patterns of organisation for knowledge, skills and values in the application of law to social work practice



In the centre of the diagram lie the knowledge, skills and values that inform and drive practice. These may be profiled and configured in different ways, giving rise to three patterns of thinking and decision-making represented by the points of the triangle.

In the approach characterised by technical rationality, legal knowledge is the driving force for practice. Emphasis is placed on practitioners having technical knowledge of the 'nuts and bolts' of the legal framework, of the powers and duties that are contained therein. The skills prioritised are those of applying that knowledge deductively to situations encountered in practice. From the starting point of knowing, for example, that there exists a duty to protect children, the question is what then does this mean for any particular child? What features exist within the child's circumstances that fit the legal map? Does any harm or damage sustained by the child fit any legal definition that triggers a duty to act⁷? Procedural guidance in the form of assessment checklists for practitioners to aid decision-making is located within this model. Values are implicit rather than explicit here, and are likely to be

⁷ For example in the UK, the legal map provided by The Children Act 1989 and related court judgements gives an understanding of what kind of presentation might cause a child to be categorised as a 'child in need' (section 17) or 'at risk of significant harm' (section 47).

construed as broad principles that underpin practice, such as 'working in partnership with parents', 'listening to children' or 'respecting human rights'.

In the approach characterised by morality and ethics, the search for ethical practice is the driver for professional activity. Legal rules are set alongside ethical rules, in pursuit of the exercise of a professional morality in any given situation. The question becomes that of determining the 'right' thing to do in moral terms. If there is no clear answer (as will often be the case in practice), the skill lies in determining the relative merits of different options, balancing the competing imperatives and dilemmas of practice, using ethical principles as guides in this task. Within this approach, law may at times be framed as antithetical to social work values, requiring hostile action to impose solutions that may challenge professional values. However, it is also possible to identify areas of convergence between values in social work practice and the legal rules (Preston-Shoot et al., 2001).

In the approach characterised by an emphasis on human rights, service users are the drivers of professional activity, from a starting point that social work's core function is to promote social justice and human rights (IASSW, 2001). Knowledge of the law might be much more broadly construed, to include not only the duties and powers that direct social work intervention itself but also the frameworks for challenging inequality and injustice, securing resources and building collective capacity. Skills prioritised are those of consultation, working in partnership, advocacy. The key question becomes that of how power might be balanced more equitably in any given situation.

The components of this triangular model are not mutually exclusive – no one point on the triangle is 'right' whilst others are 'wrong' ways to proceed. Practitioners engaged in promoting rights need to know the technical aspects of the law they use to do this. Law has a key role in regulating the use of power, and technical knowledge of administrative law is important in any professional decision-making process. Moral/ethical codes are inherently bound up with rights, or with notions of their curtailment. Legal duties must be accurately weighed in the balance with moral ones. Rational/technical practice without structural awareness, whilst 'correct' in an administrative sense, will restrict social work to individualised interventions rather than collective agendas.

Where to go from here?

But if the relationship between law and practice is so complex, where do we go from here? Twin dangers lie in paralysis or legalism (Kennedy with Richards, 2004). Politicians could be forgiven for concluding that framing legislation that shapes welfare in positive and constructive ways, and gives professionals the tools they need, is a daunting task. Clearly it is a challenging one. Practitioners could be forgiven for concluding that it is simpler to follow procedures than to consult the law books, or to work unquestioningly within safe limits. The temptation is understandable in the face of such complexity and uncertainty.

In order to understand the role of law in welfare provision, it is fundamentally important to explore how it is that social issues and concerns do or do not become framed as legal rules. In the UK context, for example, there is a detailed and unified statutory framework for child welfare, in terms of providing services to support families and protect children. By contrast, there is no coherent statutory provision for intervention to protect adults from abuse.

There are key questions to be posed when considering what kind of law to have. These are core philosophical and jurisprudential debates with which every jurisdiction must grapple (Kennedy with Richards, 2004). What kind of society do we want? Should issues be placed within a framework of "criminal" provision, or should "welfare" be the ruling ethos? Taking youth justice as an example, policy and law in the UK has vacillated between the two for many years and arguably failed to find a balanced position. Where "need" arises as a result of factors that are inherent within the structures of society, for example child poverty or racial discrimination, should state intervention be made on an individual or collective basis? Current UK frameworks for social work practice more clearly mandate the former than the latter. Should social workers have a legal duty to support community capacity building, or merely to pick up the pieces when individuals experience difficulties? Again in the UK the legal system responds predominantly on the individual level, leaving social workers to look elsewhere for inspiration to engage with the broader context of service users' lives⁸. Nevertheless, some ways forward can be identified.

First, there needs to be a stronger articulation, debate and dialogue about what it is we want law to achieve, and therefore about the relationship between law and practice. The debate needs to move beyond the assumptions identified earlier, which obscure the complexities of the relationship, to tackle the core questions of how society should respond to welfare needs and rights. Such an approach addresses the question of why the map is needed in the first place – What is the purpose of the journey? What is the sought destination?

The dialogue and debate needs to involve as wide a stakeholder network as possible, and certainly to include practitioners, professional associations and service users. Whilst different groups will not always agree, there are constructive alliances that can develop to give clear messages to politicians. Those drawing the maps need intelligence from those working on the ground, and from those whose needs and rights are to be addressed through legally-informed practice.

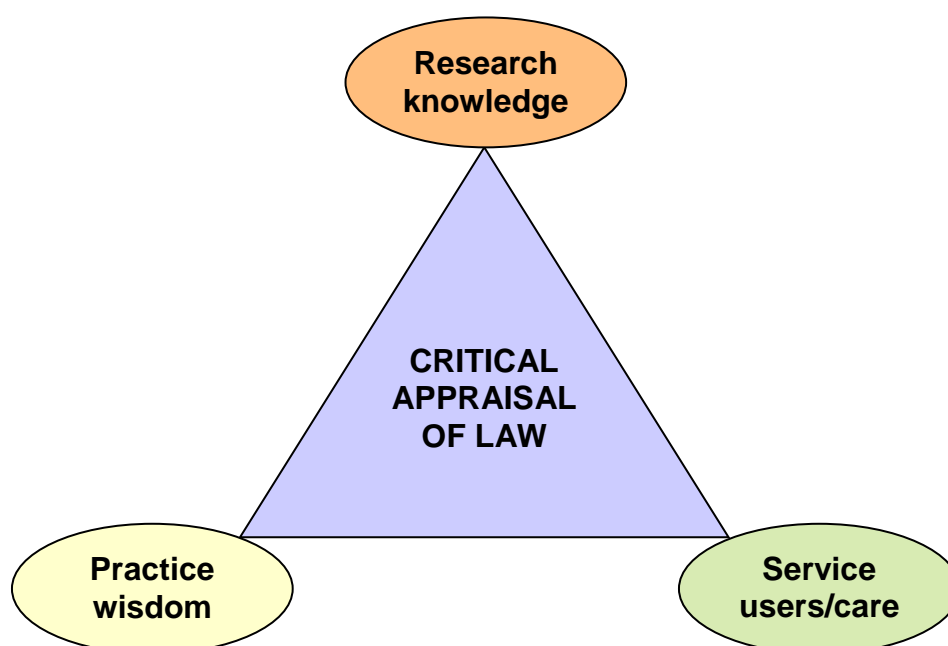
Second, drawing upon the model outlined in Figure One above, the legal framework must allow for flexibility in the framing of 'problems', to give practitioners scope to respond in ways that are not constrained by individual models of intervention, but can address collective concerns also. Practitioners must have knowledge of such mandates, where they do exist. For example, in the UK, the Race Relations (Amendment) Act 2000 requires public authorities to work towards the elimination of unlawful discrimination and to promote equality of opportunity and good race relations. They must not discriminate, directly or indirectly, in the performance of their duties.

The approach to law, at both practice and policy level, needs to move beyond the 'rational/technical' model, certainly to recognise the moral/ethical dimension of managing its relationship with the legal mandates, and ultimately to embrace a more rights-based approach. This is not to downplay the importance of a soundly constructed technical framework, and practitioners' knowledge of it – this would be dangerous, a little like setting out on a major expedition but leaving one of the maps in the cupboard at home. Nevertheless, in developing law that is fit for purpose, knowledge from other sources provides a range of filters or lenses that may be used

⁸ Equally pertinent debates exist in relation to models of social security law, where it is possible to identify a range of ideal/typical models of welfare benefits provision, ranging from the targeted approach adopted in Australia to the universal but residual system in the UK.

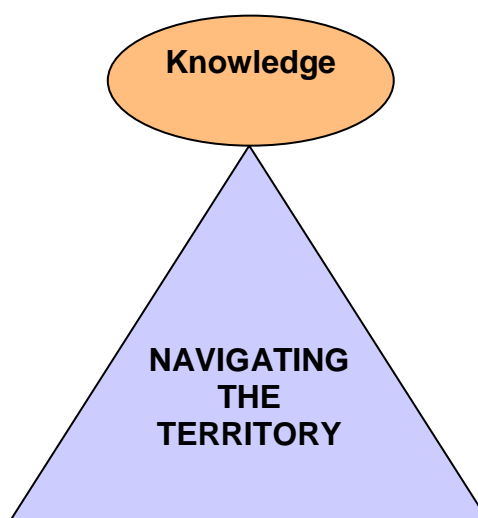
by policy makers and practitioners to subject the legal framework to critical appraisal. There is increasing recognition that the sources of knowledge in welfare provision and professional practice are complex (Pawson et al., 2003), and that effective frameworks and interventions draw upon service user and carer perspectives and practice wisdom, as well as research evidence and theory (see Figure Two). Equally, for practitioners, legal knowledge needs to be set in the context of knowledge from these other sources, to develop a critical understanding of how it contributes to and enriches professional roles and functions.

Figure 2: Sources of knowledge in welfare provision and professional practice



Equally, legal knowledge also must be mediated through values and skills (see Figure Three). Values will lead and determine what legal mandates are drawn upon, and how the law is applied. Practitioners need a clear rationale, grounded in professional ethics, for how, when and why the legal framework is used, drawing on maps other than legal ones in order to illuminate and understand the territory they occupy. Relevant skills are those of reading and interpreting maps, using them as frameworks to assist in identifying landmarks on the ground and choosing routes across the territory. Important too are skills in navigating without them, when travelling off-map, or when navigational tools fail.

Figure 3: Resources for responding to conflicting imperatives and practice dilemmas



Third, it is important to build social workers' confidence in the legal arena, and to encourage them to see law as a positive tool. Service users comment that practitioners are ill-at-ease in legal systems, not confident of their place (Braye and Preston-Shoot, 2005). They wish to see lawyers and social workers as allies in the endeavour of securing rights and justice, not as adversaries. This has implications for the kinds of knowledge that practitioners need. It means a focus on aspects of law that empower or promote rights as well as upon those that coerce and constrain. Anti-discrimination legislation, human rights law, housing and employment provision, are arguably as important to social work practice as the aspects of law that allow compulsory admission to psychiatric hospital, or removal of a child at risk. A more balanced focus would enable practitioners to work alongside both service users and lawyers to secure goals that are important to service users.

The literature is now beginning to reflect just this partnership. In the Australian context Charlesworth and colleagues (2000) argue that social work and legal practitioners can enhance each other's work, both at individual case and at policy practice levels. They advocate a partnership in scrutinising the legislative basis of policy and in working for both humane operation of existing provision and for law reform. Brown et al. (2001) demonstrate the benefits of systematic interdisciplinary collaboration between legal and human services systems in the context of family courts, leading to strong emphasis on the reciprocity of these systems in child protection (Sheehan, 2003). Legal practitioners in the UK (Brayne, 1998) and the US (Galowitz, 1999) have begun to articulate what social work might have to offer legal education and practice, whilst Forgey and Colarossi (2003) continue an emerging analysis of the skills shared by lawyers and social workers.

Finally, as well as improving the maps, it is important to work too on the territory, improving the practice environment, building bridges and supportive structures to assist safe passage through some of the more challenging terrain. This means developing practice structures that connect social workers and lawyers, teachers, health care workers. It means engaging in legally-informed debate in agencies, working to remove some of the constraints that are experienced by professionals working in corporatised welfare. It means creating structures for service users as stakeholders to articulate clearly their needs and rights in relation to the goals of professional practice. Without attention to the practice environment for legal and ethical practice, the role of law in welfare reform will be compromised, however robust the legal framework.

Law can increasingly be seen as part of the framework for accountability in policy interpretation and practice. This is reflected in important judgements in the UK and European context, where courts have been proactive in challenging restrictive

interpretations by agencies of their legal duties⁹, or even by parliament in law-making that is incompatible with the European Convention on Human Rights and Fundamental Freedoms¹⁰. With knowledge of this, practitioners can legitimately look to law for support in ensuring that their own and their employers' practices remain embedded within a duty of care that observes both legal and ethical rules. The benefit of recognising this duality, and establishing equilibrium between technical knowledge, ethics and rights, is perhaps best reflected by a comment from a service user participating in the recent study of law in social work education (Braye and Preston Shoot, 2005): *"Sound use of law can be another step on the way of getting things right for people."*

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⁹ See, for example, *TP and KM v United Kingdom* [2001] 2 FLR 549; *W and Others v Essex CC and Another* [2000] 2 AllER 237.

¹⁰ *Regina (MH) v Secretary of State for Health* [2004], *The Times*, 8December; *R (Q and Others) v Secretary of State for the Home Department* [2003] 6 CCLR 136.

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